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## BEFORE THE ARIZONA CORPORATION COMMISSION

2009 JUN 15 P 2:13

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AZ CORP COMMISSION  
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DOCKET NO. E-20633A-08-0513

IN THE MATTER OF THE APPLICATION OF THE  
SOLAR ALLIANCE FOR A DECLARATORY  
ORDER THAT PROVIDERS OF CERTAIN SOLAR  
SERVICE AGREEMENTS WOULD NOT BE  
PUBLIC SERVICE CORPORATIONS

**SALT RIVER PROJECT  
AGRICULTURAL IMPROVEMENT  
AND POWER DISTRICT'S LIST  
OF ISSUES FOR HEARING**

Salt River Project Agricultural Improvement and Power District ("SRP"), pursuant to the Procedural Order dated May 13, 2009, files its list of issues that should be considered at a hearing on Solar Alliance's application.

The procedural order of May 13, 2009 lists three procedural issues:

1. Whether the Alliance has standing to bring the Application;
2. What issues should be addressed in this proceeding; and
3. Whether a hearing should be held, and if so, the issues that should be considered during the hearing.

The procedural order directs each party who believes that a hearing is needed to provide a list of issues to be considered at the hearing.

As SRP is a party who believes that a hearing is needed to address the issues raised by the application, SRP responds by listing the issues that should be considered at the hearing.

Arizona Corporation Commission  
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[Signature]

1           **1.     *Issues relating to whether the Alliance has standing to bring this***  
2           ***application.***

3           The standing of the Solar Alliance to bring this application is largely a legal one.  
4           But, the analysis would benefit from an understanding of:

- 5                 •     Who are the members of the Solar Alliance
- 6                 •     Which members are promoting this Arizona application
- 7                 •     Who is funding the effort
- 8                 •     What are the business plans and models of the real parties in  
9                         interest

10           **2.     *Issues relating to whether the Alliance members are public***  
11           ***service corporations.***

12           The hearing would explore the core of this application, whether Solar Alliance  
13           members who carry out the business model set forth in the application are public  
14           service corporations, as defined by the Arizona Constitution. Facts to be ascertained  
15           at hearing would be those generally bearing on this issue and would focus on the  
16           cumulative impact of the eight factors listed in the *Serv-Yu* case<sup>1</sup>:

17                 (1) *What the corporation actually does.* Here we do not actually  
18                 have a corporation bringing the application. The hearing would  
19                 explore who are the real parties in interest, what are their current  
20                 activities, and what are their business plans. In addition, the  
21                 hearing would examine whether energy sales by Solar Alliance  
22                 members to retail customers are incidental to the "package" of  
23                 other services provided.

24                 (2) *A dedication to public use.* The hearing would explore the  
25                 business models and plans to determine the extent to which Solar  
26                 Alliance members would replace the functions of other public  
27                 service corporations. The hearing would also address the effect  
28                 of excess energy, not consumed by Solar Alliance customers, that  
29                 is sold back to the host utility.

30                 (3) *Articles of incorporation, authorization, and purposes.* Solar  
31                 Alliance requested Commission action without consideration of  
32                 this factor. However, such information would be helpful in  
33                 identifying the real parties in interest and explore their business

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34           <sup>1</sup> *Natural Gas Serv. Co. v. Serv-Yu Coop.*, 84 P.U.R.(NS) 148, 70 Ariz. 235, 237-8, 219 P.2d  
35           324, 325-26 (1950)

1 plans and models.

2 (4) *Dealing with the service of a commodity in which the public*  
3 *has been generally held to have an interest.* . Again, the hearing  
4 would examine Solar Alliance's contention that its members' sales  
5 of energy are merely incidental to a "package of services." It  
6 would though be helpful to explore potential consumer protection  
7 issues that may arise from the business models, including  
8 whether customers of host utilities who do not contract with Solar  
9 Alliance members will pay higher rates to cover costs not borne  
10 by Solar Alliance customers.

11 (5) *Monopolizing or intending to monopolize the territory with a*  
12 *public service commodity.* Again, the business model and  
13 projections should be explored in making this determination.

14 (6) *Acceptance of substantially all requests for service.* The  
15 assumption is that the members will seek to serve all who meet  
16 their business objectives, but it would be helpful to explore these  
17 objectives.

18 (7) *Service under contracts and reserving the right to*  
19 *discriminate is not always controlling.* The hearing would explore  
20 the type and nature of the contracts.

21 (8) *Actual or potential competition with other corporations whose*  
22 *business is clothed with public interest.* The hearing would  
23 explore the essential and central issue of the changes that the  
24 application would bring to the electricity market, and the public  
25 interest implications of these changes. The public interest would  
26 include the impact on customers, the impacts on system  
27 reliability, and the impacts on the ability of the existing utilities to  
provide economical and reliable service.

### 18 **3. Issues relating to the public interest**

19 In every application the Commission considers the public interest implications of  
20 its decision. Some of the public interest implications of the application will be  
21 explored in the analysis of the eight factors of the *Serv-Yu* case. But, the issues may  
22 go beyond this analysis. Issues could include:

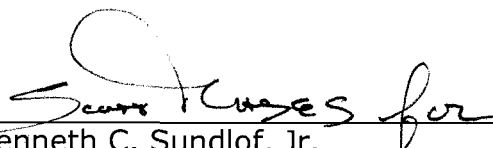
- 23 • What are the consumer protection issues?
- 24 • How are the consumer protection issues to be addressed?
- 25 • What are the public policy implications of the Solar Alliance model?
- 26 • What costs will be imposed on customers?
- 27 • How does the Solar Alliance model relate to overall resource planning?

- 1 • Whether the public interest is served by a blanket exemption from regulation  
2 for all Solar Alliance members, rather than a case-by-case determination  
3 about individual members?

4 SRP submits that the burden of going forward to establish these facts should be  
5 with the applicant, the Solar Alliance.

6 DATED this 15<sup>th</sup> day of June, 2009.

7 JENNINGS, STROUSS & SALMON, P.L.C.

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14 ORIGINAL and 13 copies filed this 15<sup>th</sup>  
15 day of June, 2009, with:

16 Docket Control  
17 ARIZONA CORPORATION COMMISSION  
18 1200 West Washington Street  
19 Phoenix, Arizona 85007

20 COPY emailed this 15<sup>th</sup> day of  
21 June, 2009, to:

22 All parties of record

23 By:   
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25  
26  
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